IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

(1) CIVIL WRIT No. 383 of 2006

ARJUN SINGH RAJPUROHIT
V/S
A.D.J.(F.T.)NO.2,JODHPUR & ANR.

(2) CIVIL WRIT No. 7194 of 2005

ARJUN SINGH RAJPUROHIT
V/S
A.D.J.NO.2,JODHPUR & ANR.

Mr. SAJJAN SINGH, for the appellant / petitioner

Mr. PK BHANSALI, for the respondent

Date of Order : 6.8.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

The writ petition No.7194/05 has of course been admitted, but since therein stay was vacated, against which order, appeal was filed before the Division Bench, and it is informed by learned counsel for the petitioner that while dismissing the appeal as not maintainable, the Hon'ble Division Bench observed that the petitioner should request the learned Single Judge to hear the matter on merits expeditiously. In that view of the matter, both the matters were heard together as they involve common question of law.

Heard learned counsel for the parties, perused the impugned orders, and also perused the written-statement and counter-claim filed by the petitioner.

The learned trial Court has rightly found that the valuation put by the petitioner on the counter-claim is not sufficient, and directed him to put appropriate valuation, and pay Court fees thereon.

It is contended by learned counsel for the petitioner that the plea sought to be raised is not a plea of counter-claim, or even set off, but is a plea for adjustment for which Court fees is not liable to be paid. In my view, in view of the judgment of this Court in Somraj Vs. Jethmal reported in 1957 RLW 113, it cannot be said that the plea is a plea of adjustment, rather it is a plea of set off and counter-claim as well, and therefore, does attract liability of Court fees. The petitioner may, therefore, even now put appropriate valuation, and pay Court fees thereon within a period of one month, sufficiency thereof shall be examined by the learned trial Court.

The writ petitions are, accordingly, dismissed with the aforesaid liberty.

(N P GUPTA),J.

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